

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

July 21, 2008

DIVISION ONE

B197281 Malak Parvizian
 v.
 Syrus Parvizian

Filed order denying petition for rehearing.

DIVISION TWO

Court convened at 9:00 a.m.

Present: Boren, P.J., Doi Todd, J., Ashmann-Gerst, J., Chavez, J. and Jim Guzman,
Deputy Clerk.

Each of the following:

B200107 Harras-Scott v. Jackson
B204598 In re Jennifer W. et al.
B201931 People v. Johnson
B199197 People v. Eloy C.
B200360 People v. Ayala
B195118 People v. Reynoso
B205199 In re Jamie A. et al
B202387 People v. Cole
B206256 In Jamie R. et al.
B202958 People v. Robinson
B204412 DCFS v. Darryl D.
B195512 People v. Finely

Argument waived, cause submitted.

DIVISION TWO (continued)

B194767 Bernard Bros. Inc.
 v.
 County of Ventura

Merits:
Argued by Lawrence Hait for appellant and by Michael Walker for
respondent. Cause submitted.

B202839 Howrey
 v.
 Casden

Merits:
Argued by Steven Goldberg for appellant and by Richard Drooyan for
respondent. Cause submitted.

B204537 Kato
 v.
 Assessment Appeals Board

Merits:
Argued by Franck Kato appellant in propria persona and by Richard
Girgado for respondent. Cause submitted.

B198608 Wolf
 v.
 The State Bar of California

Merits:
Argued by Mervyn Wolf for appellant and by Mervyn Wolf for appellant
and by Tracey McCormick. Cause submitted.

July 21, 2008 (Continued)

DIVISION TWO (continued)

B200501 Badalian

v.
Wolf

Merits:

Argued by Marc Appell for appellant and by Deane L. Shanoander for respondent.. Cause submitted.

B181765 Darlene Noble

v.
Edward Noble

Merits:

Argued by Charles Damus for appellant and by Peter Scolney for respondent. Cause submitted.

Boren, P.J. leaves bench

B196778 Cohen

v.
Burger

Merits:

Argued by Marc Sallus, Paul Cohen and Laurie Murphy for appellants and by Andrew Wallet for respondent. Cause submitted.

Court in recess.

Court reconvened at 1:00 p.m.

Present: Boren, P.J., Doi Todd, J., Ashmann-Gerst, J., Chavez, J. and Jim Guzman, Deputy Clerk.

DIVISION TWO (continued)

B204570 People
 v.
 Davila

Merits:

Argued by Christopher Reed for appellant and by Shalene Honnaka, Deputy Attorney General for respondent. Cause submitted.

B198784 Cano
 v.
 City of Los Angeles

Merits:

Argued by Charles Fonarow for appellant and by Blithe Bock for respondent. Cause submitted.

B196935 Boktor
 v.
 Altemus

Merits:

Argued by James Finsten for appellant and by Steven Fleischman for respondent. Cause submitted.

B202094 Smith
 v.
 Hunt

Merits:

Argued by James Spertus for appellant and by Lani Goodman for respondent. Cause submitted.

DIVISION TWO (continued)

B192834 Simonian
 v.
 Federal Express Corporation

Merits:
Argued by Walter Root for appellant and by David Wilson for respondent.
Cause submitted.

Ashmann-Gerst, J. leaves bench.

B201818 Gulvartian
 v.
 Fakhoury et al.

Merits:
Argued by Barry Jacobs for appellant and by Wendy Slavkin for
respondents. Cause submitted.

B192847 Mollayan
 v.
 County of Los Angeles

Merits:
Argued by Helena Wise for appellant and by Douglas Fee for respondent.
Cause submitted.

Court adjourned.

July 21, 2008 (Continued)

DIVISION THREE

B196141 People (Not for Publication)
v.
Akop Petoyan

The judgment is affirmed.

The judgment is affirmed as modified. The clerk of the superior court is directed to amend the abstract of judgment to (1) reflect that the 10-year sentences under section 186.22, subdivision (b)(1)(C), as to counts 1 and 3 are stricken; (2) to reflect that the 20-year term imposed in connection with count 3 was under section 12022.53, subdivision (c); and (3) to reflect imposition of a restitution fine in the amount of \$10,000 and a parole revocation fine in the amount of \$10,000. The clerk is directed to forward a copy of the amended abstract of judgment to the Department of Corrections.

Aldrich, J.

We concur: Klein, P.J.
Croskey, J.

DIVISION FOUR

B200948 People (Not for Publication)
v.
Gonzalez

The judgment is affirmed.

Suzukawa, J.

We concur: Epstein, P.J.
Willhite, J.

July 21, 2008 (Continued)

DIVISION FOUR (continued)

B203620 People (Not for Publication)

V.

Maria Rosarion Gonzalez

The judgment is affirmed.

Suzukawa, J.

We concur: Epstein, P.J.
Willhite, J.

B197781 People (Not for Publication)

V.

Howes & Lattanzio

The judgments are modified to impose an additional \$20 court security fee on each defendant under section 1465.8. As modified, the judgments are affirmed. The trial court is directed to amend the abstracts of judgment accordingly and to send a certified copy of the amended abstracts to the Department of Corrections and Rehabilitation.

Suzukawa, J.

We concur: Epstein, P.J.
Willhite, J.

B198642 People (Not for Publication)

V.

Jenkins

The judgment is affirmed.

Suzukawa, J.

We concur: Epstein, P.J.
Willhite, J.

DIVISION FOUR (continued)

B201839 Los Angeles County, D.C.S. (Not for Publication)
v.
Delonzo L.

The jurisdictional and dispositional orders are affirmed. We remand for the limited purpose of requiring the Department to comply with the ICWA's notice requirements. If, after proper notice is given, "neither the tribe nor the Bureau of Indian Affairs has provided a determinative response within 60 days after receiving the notice, then the court may determine that the [ICWA] does not apply to the proceedings, provided that the court must reverse its determination of the inapplicability of the act and must apply it prospectively if a tribe or the Bureau of Indian Affairs subsequently confirms that the child is an Indian child." (Cal. Rules of Court, rule 5.482(d)(1).) Alternatively, if, after proper notice is given, it is determined that the children are Indian children and that the ICWA applies to these proceedings, either the children or the parents can petition the dependency court to vacate its prior orders. (Cal. Rules of Court, rule 5.486(a).)

Suzukawa, J.

We concur: Epstein, P.J.
Willhite, J.

B205477 Los Angeles County, D.C.S. (Not for Publication)
v.
Kimberly F.

The judgment is affirmed.

Suzukawa, J.

We concur: Epstein, P.J.
Willhite, J.

DIVISION SIX

B199238 People (Not for Publication)
v.
Averhart

Because the trial court failed to instruct sua sponte on the lesser-included offense of false imprisonment, we must reverse the attempted kidnapping conviction with directions; we otherwise affirm the judgment. If, after the filing of the remittitur in the trial court, the district attorney does not bring appellant to a retrial on the charged offense within the time limit of section 1382, subdivision (a)(2), the trial court shall proceed as if the remittitur constituted a modification of the judgment to reflect a conviction of the lesser-included offense of attempted false imprisonment in violation of 236 and 664, and shall resentence appellant.

Coffee, J.

We concur: Yegan, Acting P.J.
Perren, J.

B200269 People (Not for Publication)
v.
Perez

The trial court is directed to correct the abstract of judgment to reflect the imposition of a \$20 security fee for each of the five convictions. As modified, the judgment is affirmed.

Coffee, J.

We concur: Yegan, Acting P.J.
Perren, J.

July 21, 2008 (Continued)

DIVISION SIX (continued)

[illegible]

The order is affirmed. Respondent shall recover costs.

Perren, J.

We concur: Yegan, Acting P.J.
Coffee, J.

B196119 Bandana Trading Co., Inc. (Certified for Publication)
v.
Quality Infusion Care, Inc.

The judgment is affirmed. Costs to respondent.

Yegan, J.

I concur: Gilbert, P.J.
I concur in the result: Coffee, J.

B202565 Ventura Co. Human Services Agency (Not For Publication)
v.
Patricia L., et al.,

The order of the juvenile court is affirmed.

Perren, J.

We concur: Yegan, Acting P.J.
Coffee, J.

DIVISION SIX (continued)

B202006 People (Not for Publication)

v.

Fuentes

The judgment is affirmed.

Perren, J.

We concur: Gilbert, P.J.
 Yegan, J.

DIVISION SEVEN

B207266 Javan E., (Not for Publication)

v.

Superior Court, Los Angeles County
(Los Angeles D.C.S., r.p.i.)

The petition is denied on the merits.

Zelon, J.

We concur: Perluss, P.J.
 Woods, J.

B199060 People (Not for Publication)

v.

Galdemez

The judgment is reversed.

Zelon, J.

We concur: Perluss, P.J.
 Jackson, J.

DIVISION SEVEN (continued)

B202256 Los Angeles County, D.C.S. (Not for Publication)
v.
Sharon S. et al.,

The judgment is affirmed.

Zelon, J.

We concur: Perluss, P.J.
 Woods, J.

B196255 Chavez (Not for Publication)
v.
City of Los Angeles et al.,

The judgment in favor of St. Peter is affirmed. The judgment in favor of the City is reversed, as is the November 28, 2006 order awarding the City its costs. On remand the trial court is directed to vacate its June 27, 2006 order granting the City's January 12, 2006 motion for summary adjudication on each of Chavez's FEHA claims and enter a new and different order denying the motion with respect to Chavez's retaliation claim and granting the motion with respect to Chavez's FEHA claims for disability discrimination and harassment. The court is further directed to vacate its October 11, 2006 order granting summary judgment and enter a new order granting the City's and St. Peter's July 21, 2007 alternative motion for summary adjudication in connection with the remaining claims for wrongful termination, breach of the implied covenant of good faith and fair dealing and intentional infliction of emotional distress. St. Peter is to recover her costs on appeal. Chavez and the City are each to bear his and its own costs on appeal.

Perluss, P.J.

We concur: Woods, J.
 Zelon, J.

DIVISION SEVEN (continued)

B199035 People (Not for Publication)
v.
Boykins

The judgment is affirmed.

Perluss, P.J.

We concur: Woods, J.
Zelon, J.

[illegible]

The judgment is affirmed.

Perluss, P.J.

We concur: Woods, J.
Zelon, J.

B197750 People (Not for Publication)
v.
Meda

The judgment is affirmed. The abstract of judgment is ordered corrected to reflect the imposition and suspension of a \$3,800 parole revocation restitution fine pursuant to section 1202.45. The superior court is directed to prepare a corrected abstract of judgment and to forward it the Department of Corrections and Rehabilitation.

Perluss, P.J.

We concur: Woods, J.
Zelon, J.

July 21, 2008 (Continued)

DIVISION SEVEN (continued)

B202099 People (Not for Publication)
v.
Banks

The judgment is affirmed.

Jackson, J.

We concur: Woods, Acting P.J.
Zelon, J.

B202007 People (Not for Publication)
v.
Bailey

The order directing defendant to pay attorney's fees in the amount of \$268 is vacated. In all other respects, the judgment is affirmed.

Jackson, J.

We concur: Perluss, P.J.
Woods, J.

B197631 People (Not for Publication)
v.
David S.,

The order is affirmed. The juvenile court is directed to correct its minute order as to probation condition No. 21 to provide that appellant stay away from places where he knows users congregate.

Jackson, J.

We concur: Woods, Acting P.J.
Zelon, J.

July 21, 2008 (Continued)

DIVISION SEVEN (continued)

B203641 People (Not for Publication)
v.
Darnell

The judgment is affirmed.

Jackson, J.

We concur: Woods, Acting P.J.
Zelon, J.

DIVISION EIGHT

B199777 Kim (Not for Publication)
v.
Porsche Cars North America, Inc., et al.,

The judgment is reversed and remanded for the limited purpose of directing the trial court to determine the amount of attorney fees Kim shall recover. Kim shall recover his costs on appeal.

Rubin, J.

I concur: Cooper, P.J.
I concur: Egerton, J. (Assigned) (Opinion)

B196223 Carson Gardens, L.L.C, (Not for Publication)
v.
City Of Carson Mobilehome Park Rental Review Board

The order is affirmed. Respondent Board is awarded costs on appeal.

Egerton, J. (Assigned)

We concur: Cooper, P.J.
Rubin, J.

July 21, 2008 (Continued)

DIVISION EIGHT (continued)

B194345 Po-Jen Chen et al.,
 v.
 Interinsurance Exchange of The Automobile Club

Filed order modifying opinion. Petition for rehearing is denied. (Change in judgment)